

Senate Bill No. 90

CHAPTER 905

An act to add Chapter 7.1 (commencing with Section 25620) to Division 15 of, and to add and repeal Section 25620.9 of, the Public Resources Code, and to amend Section 371 of, to add Sections 383.5 and 384 to, and to add Article 5 (commencing with Section 445) to Chapter 2.5 of Part 1 of Division 1 of, and to add and repeal Section 380 of, the Public Utilities Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed
with Secretary of State October 12, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 90, Sher. Energy resources: renewable energy resources: funding.

(1) Existing law requires that specified revenues collected by electrical corporations, from a nonbypassable charge for the creation and operation of an Independent Power Exchange, be transferred to a subaccount of the Energy Resources Program Account administered by the State Energy Resources Conservation and Development Commission, to be held until further action of the Legislature, to be used for purposes relating to the creation and development of specified renewable resource electricity generation technologies.

This bill would require those revenues collected by electrical corporations for renewable resource technologies to be deposited instead in the Renewable Resource Trust Fund, which the bill would create, and into accounts in the trust fund, which the bill would create. The bill would continuously appropriate that money to the commission and prescribe the purposes for which it may be expended, subject to a determination by the commission of the eligibility of awards, and to certification by the commission. The bill would prescribe related matters.

The bill would require that funds transferred to the commission for purposes of public interest research, development, and demonstration be transferred to the Public Interest Research, Development, and Demonstration Fund, which the bill would create, as specified.

The bill would establish the Public Interest Energy Research, Demonstration, and Development Program for the purpose of making awards for public interest energy research, development, and demonstration projects or programs that are not provided for by competitive and regulated markets. The bill would prescribe

procedures for the development, implementation, and administration of the program, as specified. The bill would require the commission, not later than January 1, 1999, to designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs to conduct a comprehensive evaluation of the program, as provided, and would require the panel to submit specified reports to the Governor and to the Legislature on implementation of the program. The bill would impose various requirements pertaining to legislative oversight and legislative committee approval of implementation of the program.

(2) Existing law specifies that, in recognition of statutory authority and past investments existing as of December 20, 1995, and subject to a specified fire wall, the obligation to pay the uneconomic costs of specified energy generation-related assets and obligations shall not apply to specified irrigation districts, water districts, water storage districts, municipal utility districts, and other water agencies, as provided.

This bill would authorize the Lower Tule River Irrigation District to request an allocation from the commission pursuant to a specified provision that exempts certain irrigation districts from the obligation to pay specified uneconomic costs of an electrical corporation's generation-related assets and obligations, if the district complies with specified requirements.

(3) Existing law authorizes the imposition of specified standby charges for standby electricity generation, transmission, and distribution facilities to private energy producers that employ other than a conventional power source for the generation of electricity.

This bill would, to recognize the potential for microgeneration facilities to enhance reliability, power quality, and to provide other demonstrable benefits to the electric transmission or distribution system, require an electrical corporation, as defined, until June 30, 2000, to waive the otherwise applicable standby charge for each eligible customer, as defined, in accordance with specified requirements.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds and declares that the purpose of revenues collected by electrical corporations pursuant to paragraph (3) of subdivision (c) of Section 381 of the Public Utilities Code is to assist in-state operation and development of existing and new and emerging renewable resource technologies, and to secure for the state the environmental, economic, and reliability benefits that development and continued operation of those new and emerging technology resource facilities will provide. The transition period for restructuring California's electrical services

industry, as generally provided for in Chapter 854 of the Statutes of 1996, poses a unique set of circumstances for these particular public goods programs, making it necessary, therefore, to provide legislative guidance for the reasonable allocation of revenues collected pursuant to Section 381 of the Public Utilities Code.

(b) (1) The Legislature further finds and declares that, to accomplish the financial transactions intended by Chapter 854 with respect to the in-state operation and development of existing and new and emerging renewable resource technologies, it is necessary for the state to act in a fiduciary capacity for the disbursement of revenues collected by electrical corporations for those purposes.

(2) It is the intent of the Legislature that state agencies acting in such a fiduciary capacity in the disbursement of revenues collected by electrical corporations specifically for renewable resource technologies shall not exercise administrative discretion in the disbursement of those revenues that is inconsistent with the allocation mechanisms authorized by this act or the authority under which those revenues are otherwise collected.

SEC. 2. Chapter 7.1 (commencing with Section 25620) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.1. PUBLIC INTEREST ENERGY RESEARCH,
DEMONSTRATION, AND DEVELOPMENT PROGRAM

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of Chapter 854 of the Statutes of 1996.

(d) The commission should use its adopted "Strategic Plan for Implementing the Research, Demonstration, and Development Provisions of AB 1890" to ensure compliance with policies and provisions of Chapter 854 of the Statutes of 1996 in the administration of public interest energy research, demonstration, and development programs.

25620.1. (a) The commission shall develop, implement, and administer the Public Interest Research, Development, and

Demonstration Program, which is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets.

(b) The program shall consist of a balanced portfolio that addresses California's energy and environmental needs, technology opportunities, and system reliability. To achieve balance, the commission shall actively solicit applications for the underrepresented subject areas of end-use energy efficiency, renewable technologies, and environmental enhancements. The portfolio shall include the relevant core subject areas of environmental enhancements, end-use efficiency, environmentally-preferred advanced generation technologies, renewable technologies, and other strategic energy research, including public interest system reliability research, demonstration, and development not adequately addressed by the Public Utilities Commission. The portfolio shall be reviewed annually by the commission through a public process. That annual review process shall consider technology status, development barriers, and expected benefits.

(c) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

25620.2. (a) The commission shall administer the program in a manner that is consistent with the purposes of Chapter 854 of the Statutes of 1996, and shall ensure that the program meets all of the following criteria:

(1) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 381 of the Public Utilities Code.

(2) Addresses key technical and scientific barriers.

(3) Demonstrates a balance between short-term, mid-term, and long-term potential.

(4) Ensures that research currently, previously, or about to be undertaken by research organizations is not unnecessarily duplicated.

(b) To ensure the efficient implementation and administration of the program, the commission shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(c) To ensure the success of electric industry restructuring in the transition to a new market structure and to implement the program, the commission shall adopt regulations, as defined in subdivision (g)

of Section 11342 of the Government Code, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(D) A deadline for the submission of written comments.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the commission.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The commission shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the commission determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25621 and 25622 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2000, unless a later enacted statute deletes or extends that date. However, after January 1, 2000, the commission shall not be required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2000, using the procedures specified in this subdivision.

25620.3. The commission may, consistent with the requirements of Section 25620.2, provide awards to any individual or entity proposing a public interest research, demonstration, and development project or program.

25620.4. (a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

25620.5. (a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired contract is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and contractual factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better projects to the state.

(6) Whenever the price of the contract is not the determining factor.

(d) The commission may establish multiparty and interagency agreements with other entities to advance a defined research, development, and demonstration project purposes. The commission

shall be a party to those agreements and shall share in the roles, responsibilities, risks, investments, and results of the agreement.

(e) The commission may choose from among two or more business entities capable of supplying or providing goods or services that meet a specified need of the commission. The cost to the state shall be reasonable and the commission shall only enter into a single source contract with a particular entity if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g), may select projects on a sole source basis when the cost to the state is reasonable and when, in consultation with the Department of General Services, the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance.

(4) The contract funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission shall not utilize a sole source basis for a project pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or fails to disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit quarterly reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

25620.6. The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

25620.7. The commission may contract for, or through interagency agreement obtain, technical or administrative services support to reduce the overhead and administrative costs of implementing the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

25620.8. The commission shall prepare and submit to the Legislature an annual report on awards made pursuant to this chapter. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of any funded projects, and any recommendations for improvements in the program. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

25620.9. (a) Not later than January 1, 1999, the commission shall designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs. The panel shall conduct a comprehensive evaluation of the program established pursuant to this chapter. The evaluation shall include a review of the public value of programs established pursuant to this chapter, and shall evaluate factors including, but not limited to, the monetary and nonmonetary benefits to public health and the environment of those programs, and the benefits of those programs in providing funds for technology development that would otherwise not be funded.

(b) Not later than March 31, 2000, the panel designated pursuant to subdivision (a) shall submit a preliminary report to the Governor and to the Legislature on its findings and recommendations on the implementation of the program established pursuant to this chapter. The panel, not later than March 31, 2001, shall submit a final report to the Governor and to the Legislature, including any additional findings and recommendations regarding implementation of the program.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 3. Section 371 of the Public Utilities Code is amended to read:

371. (a) Except as provided in Sections 372 and 374, the uneconomic costs provided in Sections 367, 368, 375, and 376 shall be applied to each customer based on the amount of electricity purchased by the customer from an electrical corporation or alternate supplier of electricity, subject to changes in usage occurring in the normal course of business.

(b) Changes in usage occurring in the normal course of business are those resulting from changes in business cycles, termination of

operations, departure from the utility service territory, weather, reduced production, modifications to production equipment or operations, changes in production or manufacturing processes, fuel switching, including installation of fuel cells pending a contrary determination by the California Energy Resources Conservation and Development Commission in Section 383, enhancement or increased efficiency of equipment or performance of existing self-cogeneration equipment, replacement of existing cogeneration equipment with new power generation equipment of similar size as described in paragraph (1) of subdivision (a) of Section 372, installation of demand-side management equipment or facilities, energy conservation efforts, or other similar factors.

(c) Nothing in this section shall be interpreted to exempt or alter the obligation of a customer to comply with Chapter 5 (commencing with Section 119075) of Part 15 of Division 104 of the Health and Safety Code. Nothing in this section shall be construed as a limitation on the ability of residential customers to alter their pattern of electricity purchases by activities on the customer side of the meter.

SEC. 4. Section 383.5 is added to the Public Utilities Code, to read:

383.5. (a) As used in this section, the following terms have the following meaning:

(1) "In-state renewable electricity generation technology" means biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, waste tire, digester gas, landfill gas, and municipal solid waste generation technologies, as described in the report, defined in paragraph (2), including any additions or enhancements thereto, that are produced in facilities located in this state and placed in operation after September 26, 1996, or that were operational prior to that date, and that are also certified under Section 292.2904 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility either located in California, or that began selling electricity to a California electrical corporation prior to September 26, 1996, under a Standard Offer Power Purchase Agreement authorized by the California Public Utilities Commission.

(2) "Report" means the Policy Report on AB 1890 Renewables Funding (March 1997, Publication Number P500-97-002) submitted to the Legislature by the State Energy Resources Conservation and Development Commission.

(b) (1) Forty-five percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to two hundred forty-three million dollars (\$243,000,000), shall be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide.

(2) Any funds used to support in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(A) Funding for existing renewable electricity generation technologies shall be grouped into three technology tiers, as follows:

(i) Twenty-five percent of the money, up to one hundred thirty-five million dollars (\$135,000,000), shall be used to fund first tier technologies, including biomass, solar thermal, and whole waste tire technologies.

(ii) Thirteen percent of the money, up to seventy million two hundred thousand dollars (\$70,200,000) shall be used to fund second tier wind technologies.

(iii) Seven percent of the money, up to thirty-seven million eight hundred thousand dollars (\$37,800,000), shall be used to fund third tier technologies, including geothermal, small hydropower, digester gas, landfill gas, and municipal solid waste technologies.

(B) The State Energy Resources Conservation and Development Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The target price for Tier 1 technologies shall not be based on less than four cents (\$0.04) per kilowatthour. The market clearing price for electricity shall be the energy prices paid to nonutility power generators as provided in Section 390.

(C) Funding for each type of existing in-state renewable electricity generation technology shall be reduced each year during the period from January 1, 1998, to January 1, 2002, to encourage the development of increasingly competitive technologies.

(D) Facilities that are eligible to receive funding pursuant to this section shall be certified in accordance with the requirements set forth in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under a fixed energy price payment under a long-term contract with an existing in-state electrical corporation.

(ii) Derives from utility-owned facility that is receiving, or is eligible to receive, recovery of above-market facility costs through a competitive transition charge.

(iii) Is used onsite, sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.



(c) (1) Thirty percent of the money, up to one hundred sixty-two million dollars (\$162,000,000), collected pursuant to paragraph (3) of subdivision (c) of Section 381, shall be used for programs designed to foster the development of new in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for new in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the report, subject to all of the following requirements:

(A) Funds shall be allocated for proposed projects based on a competitive solicitation process whereby production incentives, not to exceed one and one-half cents (\$.015) per kilowatthour, are awarded to the lowest bidders, provided that not more than 25 percent of the funds allocated pursuant to paragraph (1) may be awarded to a single project.

(B) Funds expended for production incentives shall be paid over a five-year period commencing on the date that a project begins electricity production, provided that the project shall be operational prior to January 1, 2002.

(C) The amount of funds expended shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, as fewer projects are expected to be funded during the first few years after funding becomes available.

(D) Facilities that are eligible to receive payments from the New Renewable Resources Account created pursuant to paragraph (2) of subdivision (a) of Section 445 of the Public Utilities Code shall be certified as specified in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments.

(ii) Is used onsite and is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(iii) Is produced by a facility that is owned by customer-owned electricity generating systems.

(E) Eligibility to compete for funds or to receive funds shall not be contingent upon the location or nature of the power purchaser.

(3) Repowered wind projects shall be eligible for funding under this subdivision if the new investment is at least 80 percent of the value of the repowered facility.

(d) (1) Ten percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to fifty-four million dollars (\$54,000,000), shall be used for a multiyear,

consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for emerging technologies pursuant to this subdivision shall be expended in accordance with all of the following requirements:

(A) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than four years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(B) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C) of paragraph (2) of subdivision (d), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical capacity of the system measured in watts. The amount of the per-watt incentive shall decline over the term of the program, with a corresponding increase in the amount of total electrical capacity eligible for the incentive, thereby encouraging the manufacturers and suppliers of eligible systems to reduce system costs. Incentives shall be limited to a maximum percentage of the system price, as defined by the State Energy Resources Conservation and Development Commission, and the maximum incentive percentage shall decline over the term of the program, as shall the per-watt incentive, in amounts to be determined by the State Energy Resources Conservation and Development Commission.

(C) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than ten kilowatts rated electrical capacity per customer site, provided that the technologies meet the emerging technology eligibility criteria contained in the report prepared by State Energy Resources Conservation and Development Commission. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own electrical energy demand, and shall not be owned by electrical corporations or publicly owned utilities, be located at a customer site that is not receiving distribution service from existing in-state electrical corporations. Not less than 60 percent of the available incentive funds shall be reserved for systems of 10 kilowatts rated electrical capacity or smaller, and not less than 15 percent of the funds shall be reserved for systems of 100 kilowatts rated electrical capacity or smaller. All eligible electricity generating system



components shall be new and unused, and shall not have been previously placed in service in any other location or for any other application. Systems and their fuel resource shall be located on the premises of the end-use consumer of the electricity produced, and all eligible electricity generating systems shall be connected to the utility grid in California.

(D) The State Energy Resources Conservation and Development Commission shall also determine, in collaboration with industry and consumer interests, if a program provision limiting the amount of funds available for any single project is warranted, and determine how federal, state, or other funds or incentives not related to this section that are already available, or that may become available for eligible electricity generating systems, may impact the availability of funds allocated under this section, if at all. The emerging renewable technologies program shall be implemented not later than March 31, 1998, and incentives shall be available for eligible electricity generating systems that are placed in service after January 1, 1998, in accordance with the program provisions developed by the State Energy Resources Conservation and Development Commission. However, projects placed in service after January 1, 1998, and prior to September 1, 1998, shall not be subject to limits, if any, that may be determined by the commission, pursuant to this subparagraph.

(e) Fifteen percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to eighty-one million dollars (\$81,000,000), shall be used for programs designed to provide customer credits for purchases of renewable energy produced by certified energy providers, to disseminate information regarding renewable energy technologies, to promote purchases of renewable energy, to help develop a consumer market for renewable energy, and to help develop a consumer market for renewable energy technologies, as provided in the report, subject to the following requirements:

(1) (A) Fourteen percent of the money, up to seventy-five million six hundred thousand dollars (\$75,600,000), shall be expended to provide customer credits for purchases of renewable energy produced by certified energy providers. Customer credits shall be awarded to California retail customers located in the service territory of an investor-owned utility that is subject to Section 381 who purchase qualifying renewable electric power through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity source claimed has been sold not more than once to a retail customer. Credits may be given without regard to whether the power supplier is also receiving funds under any other subdivision of this section.

(B) Credits awarded pursuant to this paragraph may be paid directly to energy marketers, aggregators, or generators if those

persons or entities account for the credits on the recipient customer's utility bills. Credits shall not exceed one and one-half cents (\$.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, shall not exceed one thousand dollars (\$1,000) per customer in 1998 and 1999. Thereafter, the State Energy Resources Conservation and Development Commission shall determine by January 10 of each year the average customer incentive rebate level paid over the preceding calendar year. In the event that the payments have remained at the one and one-half cents (\$.015) per kilowatthour cap over the preceding calendar year, the one thousand dollars (\$1,000) per customer cap shall be removed for that calendar year, except that in no event shall more than fifteen million dollars (\$15,000,000) of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(C) Funding for credits pursuant to this paragraph shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, to encourage the increasing use of those credits.

(D) The State Energy Resources Conservation and Development Commission shall develop interim criteria and procedures for the certification of energy providers and for the identification of energy purchasers who are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. Such criteria and procedures shall apply only to funding eligibility and shall not extend to other renewable marketing claims.

(2) One percent of the money, up to five million four hundred thousand dollars (\$5,400,000), shall be expended to promote renewable energy and to disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(f) (1) The State Energy Resources Conservation and Development Commission shall adopt guidelines governing the funding programs authorized under this section, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this paragraph shall not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this section shall be deemed to satisfy the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(2) The State Energy Resources Conservation and Development Commission shall, in collaboration with eligible emerging technology industry stakeholders and consumer interests, complete the

emerging technology program design, as outlined in subdivision (d), and implement its provisions.

(3) Awards made pursuant to this section are grants, subject to appeal to the State Energy Resources Conservation and Development Commission upon a showing that factors other than those described in the guidelines adopted by the State Energy Resources Conservation and Development Commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and certified to receive, payments or awards, including satisfying conditions specified by the State Energy Resources Conservation and Development Commission, shall not constitute the rendering of goods, services, or a direct benefit to the State Energy Resources Conservation and Development Commission.

(g) The State Energy Resources Conservation and Development Commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall also address the allocation of funds from interest on the accounts described in this section, money in the accounts described in subdivision (e) of Section 381, and money included in the accounts pursuant to Section 385. Notwithstanding paragraph (4) of subdivision (b) of Section 383 or subdivisions (b), (c), (d), and (e) of Section 383.5, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report.

SEC. 5. Section 384 is added to the Public Utilities Code, to read:

384. (a) Funds transferred to the State Energy Resources Conservation and Development Commission pursuant to this article for purposes of public interest research, development, and demonstration shall be transferred to the Public Interest Research, Development, and Demonstration Fund, which is hereby created in the State Treasury. The fund is a trust fund and shall contain money from all interest, repayments, disencumbrances, royalties, and any other proceeds appropriated, transferred, or otherwise received for purposes pertaining to public interest research, development, and demonstration. Any appropriations that are made from the fund shall have an encumbrance period of not longer than two years, and a liquidation period of not longer than four years.

(b) The State Energy Resources Conservation and Development Commission shall report annually to the appropriate budget committees of the Legislature on any encumbrances or liquidations

that are outstanding at the time the commission's budget is submitted to the Legislature for review.

SEC. 6. Article 5 (commencing with Section 445) is added to Chapter 2.5 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 5. Collection and Disposition of Fees for Renewable
Energy Technologies

445. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby created within the Renewable Resource Trust Fund:

- (1) The Existing Renewable Resources Account.
- (2) New Renewable Resources Account.
- (3) Emerging Renewable Resources Account.
- (4) Customer-Side Renewable Resource Purchases Account.

(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.

(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to paragraph (3) of subdivision (c) of Section 381, shall be transmitted to the State Energy Resources Conservation and Development Commission at least quarterly for deposit in the Renewable Resource Trust Fund. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the State Energy Resources Conservation and Development Commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the State Energy Resources Conservation and Development Commission without regard to fiscal year for the purposes enumerated in Section 383.5.

(e) Upon notification by the State Energy Resources Conservation and Development Commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (c) for purposes of furthering the purposes of subdivision (c) of Section 383.5. The eligibility of each award shall be determined solely by the State Energy Resources Conservation and Development Commission based on the procedures it adopts under subdivision (f) of Section 383.5. Based on the eligibility of each award, the State Energy Resources Conservation and Development Commission shall also establish the need for a multiyear commitment

to any particular award and so advise the Department of Finance. Eligible awards submitted by the State Energy Resources Conservation and Development Commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes of subdivision (c) of Section 383.5; and an accounting of future costs associated with any award or group of awards known to the State Energy Resources Conservation and Development Commission to represent a portion of a multiyear funding commitment.

(f) The State Energy Resources Conservation and Development Commission may transfer funds between accounts for cash-flow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts. The State Energy Resources Conservation and Development Commission shall examine the cash-flow in the respective accounts on an annual basis, and shall annually prepare and submit to the Legislature a report that describes the status of account transfers and repayments. Any other unallocated funds in any account shall remain in the respective account, and be available for the purposes of this section until December 31, 2001. After that date, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report described in subdivision (a) of Section 383.5.

(g) The State Energy Resources Conservation and Development Commission shall, on a quarterly basis, report to the Legislature on the implementation of this article. Those quarterly reports shall be submitted to the Legislature not more than 15 days after the close of each quarter and shall include information describing the awards submitted to the Treasurer pursuant to this article, the cumulative commitment of claims by account, the relative demand for funds by account, a forecast of future awards, and other matters the commission determines may be of importance to the Legislature.

(h) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 7. Section 380 is added to the Public Utilities Code, to read:

380. (a) To recognize the potential for microgeneration facilities to enhance reliability, power quality, and to provide other demonstrable benefits to the electric transmission or distribution

system, an electrical corporation shall waive the otherwise applicable standby charge for each eligible customer.

(b) The cumulative load for which a waiver is authorized pursuant to this section shall not exceed 1 megawatt (1MW) total, and shall be located in the service territory of the electrical corporation.

(c) For purposes of this section, “electrical corporation” means an electrical corporation that, as of December 20, 1995, served at least four million customers, and that was also a gas corporation that served less than four thousand customers.

(d) For purposes of this section, “eligible customer” means a customer who has installed a microgeneration facility as defined in subdivision (f) of Section 331 on or after 90 days from the effective date of this section if that facility meets all of the following requirements:

(1) Is operated in parallel with the electrical corporation’s transmission and distribution system.

(2) Is subject to the electrical corporation’s standby tariff.

(3) Is in full compliance with the best available control technology (BACT).

(e) To implement the provisions of this section, an electrical corporation as defined in subdivision (b) shall, not later than 90 days from the effective date of this section, file with the commission appropriate revisions to the standby tariff schedule.

(f) Any waiver granted pursuant to this section shall expire on June 30, 2000.

(g) This section shall remain in effect until June 30, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2000, deletes or extends that date.

SEC. 8. (a) Notwithstanding paragraph (5) of subdivision (a) of Section 374 of the Public Utilities Code, the Lower Tule River Irrigation District may request an allocation from the State Energy Conservation and Development Commission pursuant to paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code if the district meets both of the following requirements:

(1) The district complies with the provisions of paragraph (1) of subdivision (a) of Section 374.

(2) The district receives no direct or indirect benefit pursuant to paragraph (3) of subdivision (a) of Section 374 of the Public Utilities Code.

(b) The commission shall, within 30 days from the effective date of this section, assess the viability of the request for an allocation that is authorized pursuant to this section in accordance with the requirements of paragraph (1) of subdivision (a) of Section 374, to determine if the request is consistent with the criteria previously applied by the commission in its decision of March 26, 1997, regarding the implementation of Section 374 of the Public Utilities Code (Docket No. 96-IRR-1890).

(c) For purposes of achieving an orderly, equitable phasein of all authorized allocations within the service territory of the electrical corporation in which the district is located, the commission, in accordance with subparagraph (B) of paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code, may make adjustments to the phasein of allocations that have been previously authorized.

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